



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 21, 1998

Ms. Debra M. Esterak  
Feldman & Rogers, L.L.P.  
12 Greenway Plaza, Suite 1202  
Houston, Texas 77046

OR98-0198

Dear Ms. Esterak:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 111975.

The Clear Creek Independent School District (the "district"), which you represent, received a request for the following information:

1. Marnie Rieche's food service analysis involving the Aramark contract, and the Aramark contract itself.
2. A copy of the Hemphill bus contract.
3. A copy of the contract with Xerox signed by Mr. Rick Gay and the accompanying cost/benefit analysis; along with the minutes of the Board of Trustees meeting approving this contract.
4. Copies of the daily balance reporting for district funds from September 23, 1997 to October 15, 1997 at Moody National Bank.

You state that you will release a copy of the Aramark contract. You also explain that the district has not entered into a contract with Hemphill so no such information exists. You state that you are clarifying which Xerox contract the requestor is seeking. *See* Gov't Code 552.222. Thus, we presume that you will release the contracts sought as well as the minutes of the Board of Trustees' meeting approving such contracts. You explain that you seek to withhold the remaining requested information, the food service analysis and the daily balances of the district's accounts. You argue that the food services analysis is excepted from required public disclosure by sections 552.110 and 552.111 of the Government Code. You next assert that district's bank account numbers on the daily balance sheets must be withheld under section 552.101. We have considered the exceptions you claim and have reviewed the documents at issue.

Since the property and privacy rights of third parties may be implicated by the release of the requested information, this office notified both Aramark and Marriott about the request for information. See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision Nos. 575 (1990), 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Open Records Act in certain circumstances). Neither party has responded to our notification. Thus, we have no basis to conclude that either company's information in the food services analysis is excepted from disclosure under section 552.110. See Open Records Decision Nos. 639 (1996) at 4 (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure), 552 (1990) at 5 (party must establish prima facie case that information is trade secret), 542 (1990) at 3.

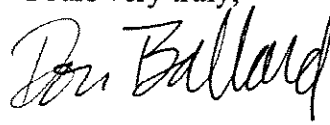
We will now examine whether you may withhold the requested food services analysis under section 552.111. Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. Open Records Decision No. 615 (1993) at 5-6. In addition, section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.* at 4-5. While some of the food services analysis information consists of advice, recommendations, or opinions that pertain to the policy functions of the district, some of the information contained in these documents is purely factual. We have marked those portions of the documents that may be withheld from required public disclosure under section 552.111. The remaining information must be released.

You next argue that the district's bank account numbers on the daily balance sheets must be withheld under section 552.101. While we appreciate your concerns for the safety and integrity of the account numbers in question, you have not pointed to a statute or other provision, nor are we aware of one, that makes the numbers confidential in the hands of the district. You may not withhold the numbers under section 552.101. The daily balance sheets must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 111975

Enclosures: Marked documents

cc: Mr. John Milstead  
1415 Davon Lane  
Nassau Bay, Texas 77058  
(w/o enclosures)